

Interview Summary

Application No.
09/843,219

Applicant(s)
Theisen

Examiner
Gina Yu

Art Unit
1617



All participants (applicant, applicant's representative, PTO personnel):

(1) Russell Travers

(3) _____

(2) James Lynch

(4) _____

Date of Interview Jul 30, 2002

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy is given to 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No. If yes, brief description:

Claim(s) discussed: All Claims

Identification of prior art discussed:

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

see attached sheets

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☐ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

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Examiner Travers spoke to Mr. Lynch on July 29, 2002, and July 30, 2002 regarding the finality of the Office Action filed June 18, 2002 (paper 6) in Application serial number 09/843,219. In a telephone conversation on July 29, 2002, Mr. Lynch averred the finality of the office action (paper 6) was premature. Examiner Travers, acting supervisor for the Examiner handling the case, reviewed the case to ascertain the final rejection's propriety. The following observations were made regarding the prosecution of the case.

1) Applicant's representative canceled the originally presented claims (Office Action 12/21/02, paper 4), and stated the new claims were simply amended forms of the originally presented claims; yet failed to provide a "marked-up" version of the claims. This "marked-up" version of amended claims was historically required; and is current Patent Office practice. The manner in which Applicant's amendments have been presented is obscure, and very misleading. Applicant never states, in paper 4, a new active ingredient limitation has been presented for the first time in amendment "A".

2) Applicant added for the first time in amendment "A" (filed in response to a rejection filed 12/21/01) a limitation wherein "one or more of straight chain monobasic carboxylic acids and associated fatty acids" could be substituted for those cholesterol compounds recited in the claims as originally presented. Although the new limitation's addition renders the claims somewhat confused; the Examiner must examiner the

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claims as broadly as possible. Applicant's amendment of the claimed subject matter necessitated a new rejection, to meet the newly recited limitations.

3) The limitation to composition claims wherein "one or more of straight chain monobasic carboxylic acids and associated fatty acids" would be substituted for those cholesterol compounds recited in the claims as originally presented prompted a new rejection under 35 USC 112, second paragraph.

Those observations were provided to Mr. Lynch in a telephonic interview on July 30, 2002. Mr. Lynch stated the limitations of paper 4 were presented in the specification as filed, thus, should be read into the claims as originally presented. Examiner stated limitations not presented in the claims, but set forth in the specification can not be read into the claims. The Examiner believes the final rejection set forth in paper 6 is proper as necessitated by Applicant's amendments.

Any inquiry concerning this communication should be directed to Russell Travers at telephone number (703) 308-4603.

Russell Travers J.D., Ph.D.
Primary Examiner
Art Unit 1617